

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ
APPROVING A HISTORIC LANDMARK PRESERVATION
AGREEMENT WITH RUTHANN EATON AND ROBERT EATON FOR
THE GEER HOUSE, 795 COE AVENUE (CITY LANDMARK NO.
HL11-198)**

MA11-003

WHEREAS, California Government Code Section 50280, et seq. and Chapter 13.48 of Title 13 of the San José Municipal Code authorize the City of San José to enter into agreements with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain the historical property's characteristics as a property of historical significance; and

WHEREAS, Ruthann Eaton and Robert Eaton possess fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address 795 Coe Avenue, City Landmark No. HL11-198 (hereinafter referred to as the "Historic Landmark") and

WHEREAS, on June 5, 2012, the City Council of the City of San José adopted its Resolution No. _____ thereby declaring and designating the Historic Landmark as a historic landmark structure pursuant to the terms and provisions of Chapter 13.48 of the San José Municipal Code; and

WHEREAS, the City of San José and Ruthann Eaton and Robert Eaton, for their mutual benefit, now desire to enter into an agreement both to protect and preserve the characteristics of historical significance of the Historic Landmark and to qualify the Historic Landmark for an assessment of valuation pursuant to the provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Historic Landmarks Commission did, on May 2, 2012 at 6:00 p.m., conduct a public hearing on a Historic Landmark Preservation Agreement for the Historic

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Landmark and recommend approval of that Historic Landmark Preservation Agreement (hereinafter "Agreement"); and

WHEREAS, a copy of the Agreement upon which such recommendation was made is on file in the Office of the City Clerk of the City of San José; and

WHEREAS, the subject property upon which the Historic Landmark is situated is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Council did give notice that on June 5, 2012 at 1:30 p.m., or as soon thereafter as said matter could be heard, this Council would, in the City Hall of the City of San José, 200 East Santa Clara Street, San José, California, hold a public hearing on said Agreement at which hearing any and all persons interested in said Agreement could appear and avail themselves of an opportunity to be heard and to present their views with respect to said proposed Agreement; and

WHEREAS, at the aforesaid time and place set for hearing, or to which the hearing was continued, this Council duly met, convened, and gave all persons full opportunity to be heard to present their views with respect to said proposed Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ THAT:

SECTION 1. In accordance with the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, this Council does hereby approve the Historic Landmark Preservation Agreement with Ruthann Eaton and Robert Eaton, owner of the Geer House (City Landmark No. HL11-198) located at 795 Coe Avenue and makes the following findings:

- a. The Agreement is consistent with the General Plan, in that preservation of specific structures or special areas is a part of the Envision San Jose 2040 General Plan *Policy LU -13.13* to foster the rehabilitation of buildings, structures,

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areas, places, and districts of historic significance; utilize incentives permitting flexibility as to their uses; transfer of development rights; tax relief for designated landmarks and districts; easements; alternative building code provisions for the reuse of historic structures; and financial incentives;

- b. The Agreement would provide greater protection for the Historic Landmark property than is otherwise provided by the provisions of San José Municipal Code Chapter 13.48 in that the owner, in partnership with the City, may use property tax relief to rehabilitate and maintain the property in accordance with the preservation plan, which plan is attached as Exhibit "C" to the Agreement; and
- c. The Agreement complies with the requirements of Section 13.48.520 of Chapter 13.48 of Title 13 of the San José Municipal Code, Historical Property Contracts, as the Agreement does incorporate the Municipal Code's required provisions for Historical Property Contracts, including the following: a description of the Historic Landmark property subject to the Agreement, a provision that the term of the Agreement is a minimum period of ten (10) years, specific conditions requiring preservation of the Historic Landmark, provision for the periodic examination of the Historic Landmark property, a requirement that the property owner annually expend an amount equal to a minimum of ten percent (10%) of the annual tax savings resulting from the Agreement on the Historic Landmark, and a provision that the Agreement is binding upon – and shall inure to the benefit of – all successors in interest of the owners in the Historic Landmark property.

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SECTION 2. Pursuant to the San José Municipal Code, Chapter 13.48, the City Clerk is hereby directed to notify the owners of the Historic Landmark subject to the Agreement and directed to record the Agreement in the Office of the Recorder of the County of Santa Clara.

ADOPTED this day of , 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk

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HL 11-198/MA11-003

EXHIBIT A LEGAL DESCRIPTION

PORTION OF LOTS 33, 34, 35 AND ALL OF LOT 36 MAP OF REIVERSIDE PARK, FILED MARCH 28, 1923 IN BOOK "R" OF MAPS, PAGE 27, SANTA CLARA COUNTY RECORDS, AS FOLLOWS:

BEGINNING AT AN IRON PIPE IN THE NORTHERLY LINE OF COE AVENUE (FORMERLY LINCOLN AVENUE OR BIRD AVENUE) AT THE SOUTHEASTERLY CORNER OF LAND CONVEYED TO ALBERT A. GEER BY DEED RECORDED IN BOOK 555 OF DEEDS, PAGE 93; THENCE ALONG THE EASTERLY LINE OF SAID LANDS, N. 23° 21' W., 164.5 FEET; THENCE S. 70° 38' W., 111.71 FEET; THENCE S. 19° 22' E., 173.68 FEET TO THE NORTHERLY LINE OF COE AVENUE; THENCE ALONG SAID LINE OF COE AVENUE, N. 66° 11' E., 123.5 FEET THE PLACE OF BEGINNING.